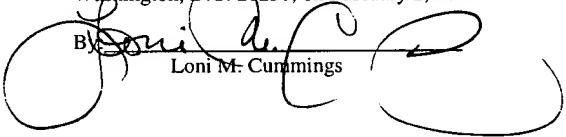


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PATENT

Heartport No. 073-C1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on February 2, 2001.

By   
Loni M. Cummings

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application to

) SWEEZER, et al.

) Application No.: 09/092,374

) Filed: June 5, 1998

For: METHOD OF OCCLUDING  
A PATIENT'S ASCENDING  
AORTA AND DELIVERING  
CARDIOPLEGIC FLUID

Examiner: J. MAYNARD

Art Unit: 3762

**TERMINAL DISCLAIMER BY  
ATTORNEY OF RECORD  
PURSUANT TO §1.321 (b)**

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

Petitioner, HEARTPORT, INC., is the owner of 100 percent interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,765,568. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration granted on the instant application that would extend to the expiration date of the full statutory term as defined in

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35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321; has all claims canceled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

An authorization for Payment of Fees Under 37 CFR §1.20 (d) is attached.

The undersigned is an attorney of record.

Respectfully submitted,

Date February 2, 2001



Jens E. Hoekendijk, Reg. No. 37,149

JENS E. HOEKENDIJK  
P.O. Box 4787  
Burlingame, CA 94011-4787  
Phone: 415-412-3322  
Fax: 650-685-9208